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JAN 19 2011

PCT LEGAL ADMINISTRATION

In re Application of
Evoy et al.
Application No.: 10/583,596
PCT No.: PCT/US2004/042718
Int. Filing Date: 17 December 2004
Priority Date: 18 December 2003
Attorney Docket No.: US03 0517 US2
For: Serial Communication Device Configurable
To Operate In Root Mode Or Endpoint Mode

DECISION

This is in response to the petition filed on 18 November 2010.

BACKGROUND

International application PCT/US2004/042718 was filed on 17 December 2004, claimed an earlier priority date of 18 December 2003, and designated the United States. The period for payment of the basic national fee in the United States expired as of midnight on 19 June 2006 (since 18 June 2006 was a Sunday). Applicants filed *inter alia* a basic national fee in 10/583,596 on 19 June 2006.

On 24 September 2010, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed to applicants, indicating that the international application had become abandoned with respect to the national stage in the U.S. for failure to timely pay the basic national fee.

DISCUSSION

Review of the instant application file reveals that the Transmittal Letter (Form PTO-1390) filed on 19 June 2006 was directed toward the national stage under 35 U.S.C. 371 of "PCT/IB2004/042718." Petitioner now indicates that "during filing of the US National Application, the incorrect International Application No. was submitted as PCT/IB2004/042718 rather than as PCT/US2004/042718." Resolution of this matter would require a formal petition (and fee) under 37 CFR 1.182, clarifying which international application was intended to enter the national stage under 35 U.S.C. 371. In view of petitioner's payment of the appropriate petition fee, the instant petition is being construed as such a petition under 37 CFR 1.182.

Comparison of the bibliographic data (e.g., title, inventors, international filing date and priority date) related to international application PCT/US2004/042718 reveals that they match those appearing on the Transmittal Letter filed on 19 June 2006. In view of the totality of the evidence currently of record, it would be appropriate to accept petitioner's statement that the instant application was intended as the national stage of PCT/US2004/042718.

In view of the payment of the basic national fee on 19 June 2006, the Notification of Abandonment mailed on 24 September 2010 is regarded as having been issued in error, and accordingly it is hereby **VACATED**.

DECISION

The constructive petition under 37 CFR 1.182 is **GRANTED**, as described above.

The holding of abandonment is **WITHDRAWN**.

This application is being returned to the Office of Patent Application Processing for the processing of this application as the national stage under 35 U.S.C. 371 of PCT/US2004/042718. This processing will include the correction of PALM records to show the status of the application as pending, not abandoned.

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